

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **CHAIRMAN LARRY JENT**, on March 31, 2005 at 8:00 A.M., in Room 455 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Larry Jent, Chairman (D)  
Rep. Dee L. Brown, Vice Chairman (R)  
Rep. Veronica Small-Eastman, Vice Chairman (D)  
Rep. Joan Andersen (R)  
Rep. Mary Caferro (D)  
Rep. Sue Dickenson (D)  
Rep. Emelie Eaton (D)  
Rep. Robin Hamilton (D)  
Rep. Gordon R. Hendrick (R)  
Rep. Teresa K. Henry (D)  
Rep. Hal Jacobson (D)  
Rep. William J. Jones (R)  
Rep. Gary MacLaren (R)  
Rep. Bruce Malcolm (R)  
Rep. Alan Olson (R)  
Rep. Bernie Olson (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Sheri Heffelfinger, Legislative Branch  
Marion Mood, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing & Date Posted: SB 478, 3/8/2005;  
SB 491, 3/30/2005; HJ 39, 3/29/2005;  
SB 73, 3/29/2005; SB 109, 3/29/2005;  
SB 462, 3/29/2005  
Executive Action: SB 396; SB 342; SB 197; SB 73;  
SB 478; SB 491

**HEARING ON SB 478****Opening Statement by Sponsor:**

**SEN. STEVEN GALLUS (D), SD 37**, opened the hearing on **SB 478**, Restrict emergency rule-making for implementing a budget reduction.

**Proponents' Testimony:**

**Jeff Holsum, Aware, Inc.**, stood in support of SB 478 as arbitrary reductions in rates imposed by agencies would greatly impact his business' obligation to continue services.

**Opponents' Testimony:**

**John Koch, Department of Health and Human Services (DPHHS)**, advised that his Department had filed 81 notices for change to the administrative rules during the last two years, three of which were emergency rules to adjust rates. He stated that the Department has used this mechanism to meet its obligations under 17-8-104 as agencies were prohibited from spending more money than was appropriated. He explained the purpose of emergency rules was to shorten the time necessary to implement a reduction in rates; these had become necessary due to a severe budget shortfall. He advised emergency rules were an important tool for the agency since filing requirements for reimbursement claims could be up to one year from the date the expense was incurred. This makes it difficult for the Department to project their expenses for the year which left little time to adjust rates so that they fell within the budget. In closing, he asked the Committee to consider the fiscal impact that a restriction on the emergency rate-making process would have on the Department; they would result in either further cuts to providers or requests for supplemental appropriation.

**Questions from Committee Members and Responses:**

**VICE CHAIR DEE BROWN, HD 3, HUNGRY HORSE**, asked Mr. Holsum to tell the Committee about the procedure to becoming a contract provider. **Mr. Holsum** advised they worked for the State within the Medicaid program; there was no specific contract per se. **VICE CHAIR BROWN** ascertained that as a contract provider, his company was aware of the rules before signing on, which **Mr. Holsum** confirmed.

**CHAIRMAN LARRY JENT, HD 64, BOZEMAN**, noted the bill eliminated the concept of emergency rule-making to implement administrative budget reductions and asked whether agencies implemented rule-

making on their own. **SEN. GALLUS** believed they followed statutory procedures and acted within their own authority.

**CHAIRMAN JENT** asked Mr. Koch which section of the law gave DPHHS the authority to cut payments to providers. **Mr. Koch** advised the Department had general rule-making authority to issue administrative rules under 53-6-113, pursuant to the Department's regulatory powers over Medicaid granted in 53-2-201. **CHAIRMAN JENT** wondered whether either of those statutes gave the Department authority to cut provider payments once they had been contracted for. **Mr. Koch** stated they did not.

**REP. SUE DICKENSON, HD 25, GREAT FALLS,** asked the Sponsor whether other agencies have to do this in order to stay within their budgets. **SEN. GALLUS** believed other agencies were forced to do the same because of the 2.68% budget cut to all agencies. He cited the Department of Corrections which contracted with private providers for a multitude of services, adding they were the second largest agency to utilize outside services. **REP. DICKENSON** wondered whether not even a thirty-day notice was required under emergency rule, which **SEN. GALLUS** confirmed. He added this was the reason for the bill as providers should be given some notice of impending changes so that they could make the necessary adjustments.

**REP. WILLIAM JONES, HD 9, BIGFORK,** referred to Mr. Koch's testimony with regard to the three emergency rate changes and asked how much time there been between the decision and the effective date. **Mr. Koch** advised in two of the cases there was less than one month for informal discussions with providers, and the change was published in the newspapers about ten days before implementation. He explained that while reductions under emergency rules become effective immediately, they are only valid for 180 days; in order to make them permanent, a regular rule-making process has to take place with 30-days' notice and participation by the public.

**REP. JONES** asked whether some services were eliminated under this process and if so, how much notice was given. **Mr. Koch** stated there was no notice given on the elimination of services. **REP. JONES** inquired whether this bill applied to the elimination of services as well. **Mr. Koch** advised SB 478 did not restrict elimination of services nor the increase of eligibility requirements.

**REP. GORDON HENDRICK, HD 14, SUPERIOR,** referred to Number 2 of the fiscal note's technical notes and asked about the funding

source. **SEN. GALLUS** advised the money would come either through Executive Order or by request of the next Legislature.

**VICE CHAIR BROWN** asked whether the Federal government gave sufficient notice to the Department with regard to reduction in funds or whether they did this overnight as well. **Mr. Koch** replied they would not be given any notice. He explained, with regard to the Medicaid program, those changes would mainly be made effective at the start of a fiscal quarter. **VICE CHAIR BROWN** asked why this could not be done with the agencies' providers. **Mr. Koch** felt it could be done.

**REP. TERESA HENRY, HD 96, MISSOULA**, wondered what would constitute the "imminent peril" to public health, safety or welfare which would require the adoption of emergency rule-making. **Mr. Koch** advised the justification for imminent peril had to do with the availability of medical services to Medicaid clients, the rationale being that a substantial cut in rates would result shutting down some providers' business as they could not sustain that kind of financial impact; this in turn meant that recipients would not be able to get proper care and could result in public health problems.

**Closing by Sponsor:**

**SEN. GALLUS** closed.

*{Tape: 1; Side: B; Approx. Time Counter: 0 - 2.5}*

**HEARING ON SB 491**

**Opening Statement by Sponsor:**

**SEN. STEVEN GALLUS (D), SD 37**, opened the hearing on **SB 491**, Revise benefits and definitions in firefighters' unified retirement system. He stated the gist of the bill was to use the highest average compensation in the calculation of retirement benefits rather than the final average as some officers might incur a reduction in pay by moving into smaller jurisdictions.

**Proponents' Testimony:**

**Doug Neil, Great Falls Fire & Rescue, Montana State Firemen's Association**, stated this bill would provide the option to go to work in a smaller community where the officer might enjoy a higher rank but took a cut in pay, and it would not adversely affect his retirement benefits.

**Pat Clinch, Montana State Council for Professional Firefighters**, rose in support of SB 491, adding his organization would have preferred to have overtime pay included.

**Mike Anderson, Retired Firefighter**, stood in support of SB 491.

**Opponents' Testimony:** None

**Informational Testimony:**

**Mike O'Connor, Montana Public Employees Retirement Administration (MPERA)**, offered to answer any questions.

**Questions from Committee Members and Responses:**

**VICE CHAIR BROWN** asked whether retirement calculations in other systems were based on the last three years of compensation. **Mr. O'Connor** advised that all systems used the highest average compensation except for police and highway patrol. He suggesting taking a look at this during the next interim to ensure consistency.

**Closing by Sponsor:**

**SEN. GALLUS** closed.

*{Tape: 1; Side: B; Approx. Time Counter: 2.5 - 12.2}*

### **HEARING ON HJ 39**

**Opening Statement by Sponsor:**

**REP. DAVE GALLIK (D), HD 79**, opened the hearing on **HJ 39**, Study alternatives to existing campaign financing system during the interim.

**Proponents' Testimony:**

**Ellie Hodges, self**, stated she was a fifth grader at Central Elementary School, and attended the PEAK Gifted and Talented Program one day a week where she had studied campaign financing last November. HJ 39 was the result of her research and discussions. **Ms. Hodges** felt this study was necessary because private campaign financing could create perceived and real conflicts of interest whereas participation in public campaign financing would allow qualified people to run for office without having to be wealthy or connected to big money contributors. It would free elected officials from continuous fund-raising and allow more time for them to do their work.

**Phil Robison, Ellie's father**, rose in support of HJ 39.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**VICE CHAIR BROWN** commended Ms. Hodges for an excellent job.

**REP. HAL JACOBSON, HD 82, HELENA**, echoed VICE CHAIR BROWN's praise and asked whether she would be available to work with the interim committee should this study be assigned. **Ms. Hodges** said she would.

**REP. GARY MACLAREN, HD 89, VICTOR**, asked about the Gifted and Talented program. **Ms. Hodges** explained that she spent one day per week at Carroll College in a program which is structured for different class levels.

**CHAIRMAN JENT** announced he would keep the hearing open so that the Commissioner of Political Practices could testify as well at which time REP. GALLIK would make his closing remarks.

**{Tape: 1; Side: B; Approx. Time Counter: 12.2 - 23.5}**

**HEARING ON SB 73**

(REPS. BROWN, JACOBSON and A. OLSON left at 9 A.M.)

**Opening Statement by Sponsor:**

**SEN. JEFF MANGAN (D), SD 12**, opened the hearing on **SB 73**, Revise requirement for location of law enforcement officers' memorial.

**SEN. MANGAN** gave an overview of the museum's history. He explained the Law Enforcement Museum is neither owned and operated by the State nor by Powell County, but by the Montana Law Enforcement Museum whose Board of Directors includes the Attorney General and various law enforcement associations. Due to a dispute with the landowner, the Law Enforcement Museum's Board looked at relocating in Great Falls which was not well received in Deer Lodge. **SEN. MANGAN** advised that **SEN. DAVE LEWIS, SD 42, HELENA**, had added an amendment in the Senate which required the Montana Historical Society (MHS) to inventory and catalog memorabilia in order to determine their ownership.

**{Tape: 2; Side: A}**

He felt the State should neither get involved in the landlord/tenant dispute nor have MHS involved at a rate of

\$33,000, suggesting to go back to the original bill which left the Memorial located within the museum and was not site specific.

**Proponents' Testimony:**

**Jerry McGee, Chairman, Montana Law Enforcement Museum,** advised there were two entities involved, namely the Montana Law Enforcement Museum and the Montana Law Enforcement Officers Memorial both of which are housed in the Territorial Prison in Deer Lodge. Due to limited funding and growth opportunity, the Board was contemplating relocation, and Great Falls had put together the best offer. He stressed that the Memorial was part of the Museum and thus they would be moved together. **Mr. McGee** contended there as no need to have MHS involved as the Museum's curator could take of cataloging the artifacts.

**Glen Stinar, Great Falls Police Department; Member, Museum Board of Directors,** echoed previous testimony, adding part of the issue was the inventory to be provided to the people of Powell County. He stated the overall goal was to make the Museum the best place possible to honor the fallen officers, even if it involved moving the facility.

**Tim Shanks, Great Falls Police Department; Member, Museum Board of Directors,** stated the opportunity to grow was important and the Board had made a business decision.

**Opponents' Testimony:**

**REP. JOHN WARD, HD 84, HELENA,** stated there were philosophical reasons for leaving both the Museum and the Memorial in Deer Lodge as it has been associated with its present location since its inception. He advised the Law Enforcement Memorial had been part of the Powell County Museum; the Board of Directors was brought in to more closely reflect law enforcement. **REP. WARD** contended the Board was not acting in good faith as items had been removed to unidentified locations without their donors having been notified.

**SEN. DAVE LEWIS, SD 42, HELENA,** advised while he had voted for SB 73 with his amendments, he opposed it without the amendments because Powell County Historical Society had a real liability if these items were removed which had been contributed to them. He had contacted Arnie Olsen of MHS and asked for his assistance; Mr. Olsen agreed at first but then suggested a consensus council should do the work. **SEN. LEWIS** offered amendments to clarify ownership and specify the entity making the determination. He was concerned that items could be taken away without the bill in

its present form. He felt it would be a terrible injustice if this ended up in the courts.

(REP. JACOBSON returned at 9:20 A.M.)

**REP. CYNTHIA HINER, HD 85, DEER LODGE**, voiced her strong opposition to the bill, stating the Museum would not be viable without the strong support of Deer Lodge residents and the Powell County Museum and Arts Foundation. She stressed the Museum's removal would disrupt history and would be a critical loss to the area. She concurred with SEN. LEWIS' assessment with regard to the importance of determining ownership as there had been a strong commitment to the Museum's integrity. The common thread in letters she had received from people who had donated artifacts wanted them returned because of the impending relocation. This would be counter-productive to any envisioned growth.

**Jim Magone, Mayor, Deer Lodge; Missoula County Sheriff (Retired)**, provided a copy of his letter to Dick Baumen and urged the Committee to leave history alone and oppose the relocation.

**EXHIBIT(sth68a01)**

**Dwight O'Hara, Powell County Commissioner**, stated Powell County had supported the Museum with its tax dollars and was committed to keep it in its present location.

**Gary Beck, City of Deer Lodge**, advised tourism dollars were vital for Deer Lodge as many major companies were gone from Southwestern Montana. He felt the reason behind the contemplated move was a personality conflict between a representative of the Powell County Museum and Arts Foundation and someone in the law enforcement community and neither one was present. He was adamant that it was not the Legislature's role to solve conflicts in communities.

**Kirk Sandquist, Chairman, People's Bank of Deer Lodge**, touted Deer Lodge's 136-year support of law enforcement.

**Robert McNally, Powell County Museum and Arts Foundation (PCMAF)**, stated the Memorial had not only been an attraction to family members of fallen officers but had become a shrine. He contended a move would prohibit many elderly people from leaving flowers or ribbons to honor the fallen officers.

**{Tape: 2; Side: B; Time Counter: 0 - 0.4}**

**Jan Bender, Powell County Chamber of Commerce**, rose in opposition to SB 73.



**Informational Testimony:**

**Arnie Olsen, Director, MHS**, provided written testimony.

**EXHIBIT**(sth68a02)

**Mike Mahoney, self**, stated the Museum and Memorial were a source of great pride because of the community's law enforcement history. He was concerned the Legislature's intervention would set a precedent and asked the Committee to let the two Boards settle their differences.

**John O'Donnell, Director, Old Prison Museum, PCMAF**, believed the Museum and the Memorial were inextricably linked. He had worked with the consensus council whose concern was liability with regard to the lack of documentation; to that end, he provided Exhibit 3, consisting of three letters, one from the Museum's Curator and two from a donor of artifacts.

**EXHIBIT**(sth68a03)

(VICE CHAIR BROWN returned.)

**Edward Hill, Secretary, PCMAF**, submitted a letter from Jim Blodgett, former warden of the Montana State Prison, to James Haas, Curator, PCMAF.

**EXHIBIT**(sth68a04)

**Questions from Committee Members and Responses:**

**REP. EMELIE EATON, HD 58, LAUREL**, asked **Mr. O'Donnell** whether he had been the director in the 1980's, which he denied. **REP. EATON** wondered whether he had been involved with the formation of the Law Enforcement Museum. **Mr. O'Donnell** stated Mr. McNally had been. **VICE CHAIR BROWN** requested that **Mr. McNally** provide a brief history, which he did.

**REP. EATON** asked Mr. Beck about the artifacts in the Memorial. **Mr. Beck** advised most of them had been gathered statewide by Jim Blodgett.

**REP. JOAN ANDERSEN, HD 59, FROMBERG**, inquired whether the Museum used acquisition forms for donated items, which **Mr. O'Donnell** confirmed. **REP. ANDERSEN** wondered who was listed as the recipient. **Mr. O'Donnell** advised until 1988 when the Museum was incorporated, it was the Powell County Museum and Art Foundation (PCMAF); since then, it should be "Montana Law Enforcement Museum, Inc."

**REP. BRUCE MALCOLM, HD 61, EMIGRANT**, stated he was still not clear on the flow of ownership and asked to have someone provide this information for executive action.

**Jerry McGee** provided a copy of a "Deed of Gift" to illustrate the type of document which had been used in the 1980's.

[EXHIBIT](#)(sth68a05)

**REP. DICKENSON** wondered whether there were any other official memorials which were privately owned. **SEN. MANGAN** was not sure but promised to obtain this information.

**Closing by Sponsor:**

**SEN. MANGAN** closed, stressing that the Museum's Board had requested the bill.

*{Tape: 2; Side: B; Approx. Time Counter: 0.4 - 22.7}*

**HEARING ON SB 109**

**Opening Statement by Sponsor:**

**SEN. JOHN COBB (R), SD 9**, opened the hearing on **SB 109**, Require state agencies to develop strategic plans, performance measures. He contended State agencies were running things and the Legislature merely took a look at their new requests every two years without reviewing their performance. He passed out copies of various agencies' goals for the Committee to peruse but did not want them entered into the record. **SEN. COBB** outlined the bill's provisions.

*{Tape: 3; Side: A; Approx. Time Counter: 0 - 3.4}*

**Proponents' Testimony:** None

**Opponents' Testimony:**

**David Ewer, Budget Director**, took offense at the Sponsor's allegations; he contended the bill's premise was false and held up numerous documents in support of his contention that agencies not only publish their missions but also how they go about accomplishing them. He advised State government took performance and mission statements very serious, and it did what the legislature asked of it.

Note: Mr. Ewer had a hard time controlling his anger as he dropped each of the documents.

**Questions from Committee Members and Responses:**

**REP. BERNIE OLSON, HD 10, LAKESIDE**, asked the Sponsor whether this bill would reduce the amount of paperwork to a manageable size and establish more meaningful reports. **SEN. COBB** stated it would add one more report. He pointed to the fiscal note which showed how much money these reports would cost and added that the Sponsor's fiscal note did not show any impact as he felt all agencies were doing some sort of strategic planning already.

(REP. HENDRICK left at 10:10 A.M.)

**Closing by Sponsor:**

**SEN. COBB** closed, stating an interim committee would have the time to review mission and performance statements.

(**CHAIRMAN JENT** announced a 15-minute break, from 10:15 to 10:30 A.M.)

**HEARING ON SB 462**

**Opening Statement by Sponsor:**

**SEN. KEITH BALES (R), SD 20**, opened the hearing on **SB 462**, Revise venue requirements for actions against state agencies. He reviewed the bill with the Committee, stating that it added some provisions which had been left out of a similar bill by REP. A. OLSON in the last session.

**Proponents' Testimony:**

**John Bloomquist, Montana Stockgrowers Association**, commended the Sponsor for providing consistency within the law.

**Bud Clinch, Executive Director, Montana Coal Council**, stated while all five mines were in operation, they would occasionally require additional permits or amendments, and there were new coal developments on the horizon which would be subject to a wide variety of permitting decisions and actions by State agencies. This bill would greatly facilitate this process.

**Ellen Engstedt, Montana Wood Products Association**, rose in support of SB 462 as she firmly believed actions brought against a timber sale, for instance, should be heard in that county rather than in a distant courts.

**John Youngberg, Montana Farm Bureau Federation**, stood in support of the bill for previously stated reasons and added it was important for witnesses to be able to appear.

**Don Allen, Western Environmental Trade Association (WETA)**, rose in support of SB 462, saying it made sense from a legal, regulatory and practical standpoint.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REP. DICKENSON** referred to the fiscal note which showed no impact to the State and wondered whether there would be cost to the State as far as travel expenses for expert witnesses. **SEN. BALES** stated the fiscal note was accurate as the State would pay expert witnesses no matter where the legal action was taking place.

**REP. DICKENSON** asked whether the water court would move to wherever a water adjudication process was taking place, citing a current case in Bozeman. **SEN. BALES** advised the water court would remain in Bozeman until the current adjudication was completed; it might mean that some protests would come before the Department of Natural Resources and Conservation (DNRC) in the county where the protest had been filed.

**REP. ROBIN HAMILTON, HD 92, MISSOULA**, stated that usually, when a change of venue was requested it was done in hopes of finding a more favorable court; he asked Mr. Clinch if this was the reason behind the bill. **Mr. Clinch** advised the concept was that the knowledge in these districts would be broader as the district judges knew their areas as well as the projects and their ramifications. From his own experience, having to bring all cases to the First Judicial District in Helena not only overloaded the court but places an undue burden on the district.

**REP. MACLAREN** asked whether the reason for moving cases to other courts was the exorbitant number of cases filed here, creating a backlog. **Mr. Clinch** explained the reason for all cases being filed in Lewis & Clark County was that it was required by law.

**Closing by Sponsor:**

**SEN. BALES** closed.

**EXECUTIVE ACTION ON SB 390**

**Motion:** **REP. BROWN** moved that SB 390 BE CONCURRED IN.

**{Tape: 3; Side: B}**

**Discussion:**

**Sheri Heffelfinger, Legislative Services Division**, advised that REP. DICKENSON had requested an amendment dealing with principal campaign committees; she discovered this was already defined in the bill, on Line 19.

**REP. DICKENSON** advised her intent was to exclude incidental committees, and asked to defer action on SB 390.

Without objection **VICE CHAIR BROWN** withdrew her motion.

**EXECUTIVE ACTION ON SB 396**

**Motion:** **VICE CHAIR BROWN** moved that SB 396 BE CONCURRED IN.

**Motion/Vote:** **REP. JENT** moved that AMENDMENT SB039601.ash BE ADOPTED. Motion carried 14-2 by voice vote with **VICE CHAIR BROWN** voting no; **REP. A. OLSON** voted no by proxy.

[\*\*EXHIBIT\*\*](#)(sth68a06)

**Motion:** **REP. B. OLSON** moved that AMENDMENT SB039602.ash BE ADOPTED.

[\*\*EXHIBIT\*\*](#)(sth68a07)

**Discussion:**

**REP. B. OLSON** stated he brought this amendment because he believed soft money contributions presented a big problem as they tended to finance negative or derogatory statements over which a candidate had no control; moreover, this money seemed to be in great abundance. He proceeded to review the amendments with the Committee.

**REP. DICKENSON** stated her support for this concept but wondered how it would be enforced if a candidate did not know and did not include the cost in his finance report. **REP. B. OLSON** surmised the committee would register with the Commissioner of Political Practices and they would have to document where the money had come from and how it was spent.

**REP. DICKENSON** inquired who would decide who was behind the negative ads. **REP. B. OLSON** replied it had not been difficult to determine the source in the past, or on whose behalf the ads were brought. He felt, because of the free speech issue, it could not be prohibited totally but he was certain a monetary limit could be imposed.

**CHAIRMAN JENT** advised this was a First Amendment issue and he was not sure of the answer; he did know, though, if Subsection (3) was added back into the bill, it would have to go to a Conference Committee where it would meet with its demise, unlike the first amendment passed by the Committee.

**Vote:** Motion that AMENDMENT SB039602.ASH BE ADOPTED carried 12-4 by roll call vote with REP. CAFERRO, REP. HAMILTON, REP. JENT, and REP. SMALL-EASTMAN voting no; REP. A. OLSON voted aye by proxy.

(VICE CHAIR BROWN left.)

**Motion/Vote:** REP. HENDRICK moved that SB 396 BE CONCURRED IN AS AMENDED. Motion carried 12-4 by roll call vote with REP. CAFERRO, REP. EATON, REP. HAMILTON, and REP. JENT voting no; VICE CHAIR BROWN and REP. A. OLSON voted aye by proxy.

REP. B. OLSON agreed to be the House Sponsor.

*{Tape: 3; Side: B; Approx. Time Counter: 0 - 17.7}*

(**CHAIRMAN JENT** did not sign the Standing Committee Report as there were concerns about the bill's constitutionality; the motion to concur was reconsidered on April 1, 2005.)

#### **EXECUTIVE ACTION ON SB 342**

**Motion:** REP. JACOBSON moved that SB 342 BE CONCURRED IN.

**Motion:** REP. JACOBSON moved that AMENDMENT SB034202.ash BE ADOPTED.

**EXHIBIT**(sth68a08)

#### **Discussion:**

REP. JACOBSON reminded the Committee that these amendments had been requested by the Contractors' Associations and SEN. LASLOVICH was comfortable with the changes. REP. JACOBSON reviewed the amendments and **Ms. Heffelfinger** explained Title 60-2-134, stating it defined the request for qualifications; this was the first step in the process, done before the request for proposal.

**VICE CHAIR SMALL-EASTMAN** asked REP. JACOBSON whether county commissioners would have to get estimates from outside engineers rather than relying on the Department of Transportation if they wanted to build a road in their county. REP. JACOBSON replied they would not as this bill established the parameters with

regard to design-build projects only; if the county used the conventional approach, they could certainly do that.

**Vote: Motion carried unanimously by voice vote; VICE CHAIR BROWN and REP. A. OLSON voted aye by proxy.**

**Motion: REP. JONES moved that SB 342 BE CONCURRED IN AS AMENDED.**

**Discussion:**

**REP. JONES** expressed concern with language in New Section 3.

**REP. JACOBSON** contended this was one of the inherent risks a government agency would take when it chose to go with a design-build contract.

***{Tape: 4; Side: A; Comments: VICE CHAIR BROWN returned at 11:18 A.M. }***

**REP. JONES** feared these provisions would promote favoritism in smaller communities.

**REP. DICKENSON** surmised the advantage of going this route was timeliness; she wondered whether there were other advantages.

**REP. JACOBSON** stated another advantage was that the architectural engineering firm, for instance, did not have to execute the construction documents to the extent required if they were bidding on the project. The contractor would take over part of the preliminary work, thus saving some costs.

To alleviate **REP. JONES'** concern, **REP. B. OLSON** advised much of the Highway 93 North project was done through a design-build contract to accommodate tribal concerns.

**REP. ANDERSEN** asked **REP. JACOBSON** whether the Department of Transportation had the ability to reimburse the unsuccessful applicant. **REP. JACOBSON** did not know. **REP. ANDERSEN** wondered if Section 4 could be eliminated through a conceptual amendment.

**CHAIRMAN JENT** stated he was not inclined to allow this.

**REP. B. OLSON** contended it was not a good idea as companies did incur extraordinary expenses under the design-build concept, and if this provision was eliminated, nobody would bid on State contracts. **CHAIRMAN JENT** agreed, adding he was certain the Department could reimburse unsuccessful bidders.

**Vote: Motion carried 13-3 by voice vote with REP. ANDERSEN and REP. JONES voting no; REP. A. OLSON voted no by proxy.**

**REP. JACOBSON** agreed to be the House Sponsor.  
{Tape: 4; Side: A; Approx. Time Counter: 0 - 12}

**EXECUTIVE ACTION ON SB 197**

**Ms. Heffelfinger** provided an updated version of a paper she had prepared for an interim committee; it explained the terms "insurance premium tax" and "fire marshal's tax." She advised to insert "\$3 million" at the top of Page 3 and explained the paper to the Committee.

**EXHIBIT**(sth68a09)

**Motion:** **REP. BROWN** moved that SB 197 BE CONCURRED IN.

**Discussion:**

**VICE CHAIR BROWN** reviewed the bill, emphasizing the eligibility criteria, and asked whether it was actuarially sound. **Ms. Heffelfinger** reminded her that the Retirement Board had opposed this legislation as it would extend the unfunded liability by one year. She referred to the information received from John Northey, which showed an average annual revenue increase of 10% to the volunteer firefighters; Mr. Northey contended this offset the unfunded liability.

**EXHIBIT**(sth68a10)

**REP. HENRY** pointed to the updated page of the "Green Sheets", stating the number of years had been decreased from twenty-one to twenty years, which **Ms. Heffelfinger** confirmed.

**VICE CHAIR BROWN** stated she would worry about a thirty-year difference but not about a one-year difference, especially when it came to helping out volunteers.

**CHAIRMAN JENT** agreed, saying his main concern was finding incentives to keep volunteers in rural fire departments.

**REP. JONES** advised he would oppose the bill as he feared it would lead to "leap-frogging," meaning that all other departments would come in and make the same requests; he added his worry was compounded by the fact that the system was not actuarially sound.

**VICE CHAIR BROWN** believed the system was actuarially sound, and the benefits in the bill would not be paid out for another ten years. **Ms. Heffelfinger** advised the Retirement Board had not actually stated the number of years this bill would extend the liability; she had taken the one year from proponents' testimony.



**REP. B. OLSON** stated the purpose of the bill was to keep volunteers for another ten years; he was willing to whatever it took to make sure they stayed as those volunteers were essential to smaller communities.

**{Tape: 4; Side: B}**

**Vote:** Motion that SB 197 BE CONCURRED IN carried 13-3 by voice vote with **REP. ANDERSEN**, **REP. HENDRICK**, and **REP. JONES** voting no; **REPS. A. OLSON** and **JACOBSON** voted aye by proxy.

**REP. GOLIE** had agreed to be the House Sponsor.

#### **EXECUTIVE ACTION ON SB 73**

**Motion:** **REP. BROWN** moved that SB 73 BE CONCURRED IN.

**Substitute Motion/Vote:** **REP. B. OLSON** made a substitute motion that SB 73 BE TABLED. Substitute motion carried 11-5 by roll call vote with **REP. CAFERRO**, **REP. DICKENSON**, **REP. HENRY**, and **REP. SMALL-EASTMAN** voting no; **REP. A. OLSON** voted aye by proxy and **REP. JACOBSON** voted no by proxy.

(**REP. A. OLSON** joined the hearing and **REP. JACOBSON** returned at 11:50 A.M.)

#### **EXECUTIVE ACTION ON SB 478**

**Motion:** **REP. BROWN** moved that SB 478 BE CONCURRED IN.

#### **Discussion:**

**CHAIRMAN JENT** advised that he had reservations about extending rule-making authority to the DPHHS particularly as some of their decisions have been challenged in court.

**REP. JONES** stated this bill was about the largest agency with the largest budget which took care of the poorest people. Having the rule-making ability gives them a tool to manage their budget; if this was taken away, the Legislature would need to provide a "cushion" so that they could continue to serve their clients. He stated his opposition to the bill.

**REP. CAFERRO** voiced her support as there were options other than the emergency rules because in some cases, the department did not even notify their providers of impending emergency rules; they found out through the newspapers after the fact. One of the proponents employed 700 people and his clientele consisted of two hundred children which would be the first ones to be impacted.

**REP. HENRY** stated her support as there was an acute need for the bill.

**VICE CHAIR BROWN** advised the Department did have time to notify providers well in advance of impending rate reductions, which would allow the providers to make the necessary changes in their companies. She added this Department was totally out of control and favored sending a strong message for them to provide for their clients first and their bureaucracy last.

**REP. JONES** contended passage of this bill would make a special session necessary.

**REP. DICKENSON** reminded the Committee that the Legislature was responsible for the agency's budget. She felt it unfair that consumers and providers had to suffer because of poor budget decisions; a request for a supplemental appropriation would send a clear message to the Legislature to do better. She thought it unfair that the agency had to cut services, rates to providers and eligibility standards to stay within its budget.

**REP. A. OLSON** agreed with **REP. JONES** in that passage of this bill meant a special session at \$50,000 per day, which would have to come out of someone's program.

**Vote:** Motion that SB 478 BE CONCURRED IN carried 9-7 with **REP. ANDERSEN**, **REP. HENDRICK**, **REP. JONES**, **REP. MACLAREN**, **REP. MALCOLM**, **REP. A. OLSON**, and **REP. B. OLSON** voting no.

**CHAIRMEN JENT** agreed to be the House Sponsor.

#### EXECUTIVE ACTION ON SB 491

**Motion/Vote:** **REP. DICKENSON** moved that SB 491 BE CONCURRED IN. Motion carried 14-2 by voice vote with **REP. JONES** and **REP. MACLAREN** voting no.

**REP. JACOBSON** agreed to be the House Sponsor.

**CHAIRMAN JENT** provided copies of a draft of his letter to DNRC regarding the transfer of State property in Jefferson County.

**EXHIBIT**(sth68a11)

**ADJOURNMENT**

Adjournment: 12:05 P.M.

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REP. LARRY JENT, Chairman

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MARION MOOD, Secretary

LJ/mm

Additional Exhibits:

**EXHIBIT ([sth68aad0.TIF](#))**